

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DOROTHY MAE STRAIGHT,

Plaintiff,

v.

Civ. Action No. 1:20-CV-219
(KLEEH)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER

On September 8, 2020, the Plaintiff, Dorothy Mae Straight ("Plaintiff"), filed a Complaint for Review of the Decision of the Commissioner of Social Security. The Court referred the action to United States Magistrate Judge James P. Mazzone (the "Magistrate Judge") for review.

Plaintiff filed a Motion for Summary Judgment on March 29, 2021. ECF No. 8. The Defendant, the Commissioner of Social Security ("Defendant"), filed a Motion for Summary Judgment on April 28, 2021. ECF No. 10. On August 19, 2021, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court grant in part and deny in part Plaintiff's motion; grant in part and deny in part Defendant's motion; and remand the case to the Administrative Law Judge ("ALJ") for further proceedings.

The R&R informed the parties that they had fourteen (14) days

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from the date of service of the R&R to file "written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to timely file objections . . . will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation." To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarciro v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ORDERS** the following:

- The R&R [ECF No. 11] is **ADOPTED**;
- Plaintiff's Motion for Summary Judgment [ECF No. 8] is **GRANTED IN PART** and **DENIED**

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IN PART, in accordance with the R&R;

- Defendant's Motion for Summary Judgment [ECF No. 10] is **GRANTED IN PART** and **DENIED IN PART**, in accordance with the R&R;
- This action is **REMANDED** to the ALJ for further proceedings, in accordance with the R&R; and
- This action is **STRICKEN** from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record.

DATED: February 11, 2022

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE